

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 26, 2009

DIVISION ONE

1005812-09

The Honorable **STANLEY M. WEISBERG**, Retired Judge of the Superior Court of California, County of Los Angeles, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division One, as a justice thereof, on the following dates:

April 1, 2009 to May 29, 2009

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal Justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

March 26, 2009

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

March 26, 2009 (Continued)

DIVISION ONE (continued)

1005811-09

The Honorable **LAURENCE D RUBIN**, Associate Justice of the Court of Appeal, Second Appellate District, Division Eight, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division One, as a justice thereof, on the following dates:

April 21, 2009

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal Justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

March 26, 2009

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

March 26, 2009 (Continued)

DIVISION ONE (continued)

B197577 People (Not for Publication)
v.
Mohammed Khayatian

The judgment is affirmed.

Rothschild, J.

We concur: Mallano, P.J.
 Weisberg, J. (Assigned)

B207647 In re Marvin Webb on Habeas Corpus (Not for Publication)

The petition for a writ of habeas corpus is granted. The Board is directed to find Webb suitable for parole unless, within 30 days of the finality of this decision, the Board holds a parole suitability hearing and finds, based on new evidence, that he currently poses an unreasonable risk of danger to society if released on parole.

Weisberg, J. (Assigned)

We concur: Mallano, P.J.
 Rothschild, J.

B198722 People (Not for Publication)
v.
Abel Jimenez

The judgment is affirmed.

Tucker, J. (Assigned)

We concur: Mallano, P.J.
 Rothschild, J.

March 26, 2009 (Continued)

DIVISION ONE (continued)

B210088 People (Not for Publication)
v.
Larry Williams

The appeal is dismissed.

Tucker, J. (Assigned)

We concur: Mallano, P.J.
 Rothschild, J.

B208685 Saihb Halil (Not for Publication)
v.
Medical Board of California

The judgment denying Halil's petition for writ of mandate is affirmed.

Tucker, J. (Assigned)

We concur: Mallano, P.J.
 Rothschild, J.

B206492 People (Not for Publication)
v.
Fraga

The sentence is vacated and the case is remanded for resentencing on counts 1, 2, and 4. In all other respects, the judgment is affirmed.

Tucker, J. (Assigned)

We concur: Mallano, P.J.
 Rothschild, J.

DIVISION ONE (continued)

B203081 Diaz et al. (Not for Publication)
v.
Ajrab et al.

We reverse the award of damages to the Diazes for breach of contract and fraud and remand to the trial court for entry of judgment in favor of Ajrab. The parties shall bear their own costs on appeal.

Bauer, J. (Assigned)

We concur: Mallano, P.J.
 Rothschild, J.

B206105 Sims (Not for Publication)
v.
County of Los Angeles Department of Children and Family Services

The judgment is affirmed. Respondent(s) to recover costs.

Rothschild, J.

We concur: Mallano, P.J.
 Tucker, J. (Assigned)

B209521 Thornton (Not for Publication)
v.
Burgh Balian & Bergstein, et al.

The trial court order dated May 19, 2008 is affirmed on the ground that Grant Thornton's cross-claim against Burgh Balian & Bergstein and John Balian does not arise from protected activity under Code of Civil Procedure section 425.16.

Tucker, J. (Assigned)

We concur: Mallano, P.J.
 Rothschild, J.

March 26, 2009 (Continued)

DIVISION ONE (continued)

B202775 In re Rufus Young on Habeas Corpus (Not for Publication)

The petition for a writ of habeas corpus is granted. The Board is directed to find Young suitable for parole unless, within 30 days of the finality of this decision, the Board holds a parole suitability hearing and finds, based on new evidence, that he currently poses an unreasonable risk of danger to society if released on parole.

Mallano, P.J.

We concur: Rothschild, J.
 Weisberg, J. (Assigned)

B205510 People
 v.
 Arlene Yvonne Merchain

Filed order denying petition for rehearing.

DIVISION TWO

Court convened at 9:00 a.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J., Chavez, J. and Jim Guzman,
Deputy Clerk.

Each of the following:

B209770 In re Annabelle D.
B207485 People v. Richardson
B210442 In re A.G.
B204563 People v. Briggs
B211553 In re A.M., et al.
B208918 People v. Staples
B205881 People v. Huguez & Huguez
B209426 DCFS v. William S.
B207080 People v. Melendez

DIVISION TWO (continued)

Each of the following (continued):

B209554 Andrade v. Kessel

B206195 People v. Avina

Argument waived, cause submitted.

B207809 People
 v.
 Rivera

Merits:

Argued by Edward Haggerty for appellant and by Herbert Tetef, Deputy Attorney General for respondent. Cause submitted.

B203506 OPRI, et al.
 v.
 Birkhead

Merits:

Argued by Raul Martinez for appellants and by Andrew Stien for respondent. Cause submitted.

BB20481 Johnson
 v.
 Morales

Merits:

Argued by Stuart Leviton for appellant and by Areva Martinez for respondent. Cause submitted.

DIVISION TWO (continued)

B203991 Rivera, et al.
 v.
 Fly,et al.

Merits:

Argued by Hilda Garzon-Ayavazian for appellants and by Stephen Davis and Mary O'Neill for respondents. Cause submitted.

B203762 Pearl
 v.
 Deitch

Merits:

Argued by Mark Feldman for appellant and by Robert J. Franklin for respondent. Cause submitted.

B207672 Casiano
 v.
 Wet Seal Retail Inc.
 Chaaban

Merits:

Argued by Sima Fard for appellant and by Kenneth Yoon and Tracy Cahill for respondents. Cause submitted.

B206917 Golden Eagle Insurance Corp.
 v.
 Gerling America Insurance Co.

Merits:

Argued by Robert Keaster for appellant and by Kelley Beck for respondent. Cause submitted.

Court in recess

DIVISION TWO (continued)

Court reconvened at 1:00 p.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J., Chavez, J. and Jim Guzman,
Deputy Clerk.

B200410 People
 v.
 Ainsworth

Merits:

Argued by Katherine Greenebaum for appellant and by Zee Rodriguez,
Deputy Attorney General for respondent. Cause submitted.

B207343 Duval
 v.
 Superior Court, Los Angeles County
 (Williams, r.p.i.)

Merits:

Argued by David Duval petitioner in propria persona and by Roy Kight for
respondent. Cause submitted.

B201036 Sadegh
 v.
 Nikjeh

Merits:

Argued by Nina Rae Ringgold for appellant and by Russell Behjatnia for
respondent. Cause submitted.

B209956 Shari, et al.
 v.
 Alex M.

Merits:

Argued by Christopher Blake for appellant and by Jane Gorman for
respondents. Cause submitted.

March 26, 2009 (Continued)

DIVISION TWO (continued)

B204545 Horwitz, et al.
 v.
 City of Los Angeles

Merits:

Argued by Mark Baker for appellant Beglari and by Ronald Oster and Colleen Courtney, Deputy City Attorney for respondents. Cause submitted.

Court adjourned.

DIVISION THREE

1005810-09

The Honorable **JOSEPHINE S. TUCKER**, Judge of the Superior Court of California, County of Orange, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Three, as a justice thereof, on the following dates:

April 14, 2009

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal Justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

March 26, 2009

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

DIVISION THREE (continued)

B210470 Long Beach Memorial Medical Center (Certified for Publication)
v.
Superior Court, Los Angeles County
(Makya Connors, through her Guardian Ad Litem Anthony Hill, et al.,

Let a peremptory writ of mandate issue directing the superior court to vacate its August 13, 2008 order finding the settlement agreement between the physicians and plaintiffs to be in good faith. Petitioner shall recover its costs in this proceeding.

Aldrich, J.

We concur: Klein, P.J.
 Kitching, J.

B205231 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Danielle R., et al.

The orders terminating parental rights and terminating reunification services are reversed in accordance with the views in expressed in this opinion.

Aldrich, J.

We concur: Klein, P.J.
 Kitching, J.

DIVISION FIVE

B202029 Frank Lima (Not for Publication)
 v.
 City of Los Angeles

The judgment is affirmed. Respondent(s) to recover costs.

Turner, P.J.

I concur: Armstrong, J.
I dissent: Mosk, J. (Opinion)

B207960 People
 v.
 Jose G.

Filed order denying petition for rehearing.

DIVISION SIX

B192544 In re Michael Montgomery (Not for Publication)
 on
 Habeas Corpus

The order granting Montgomery's petition for writ of habeas corpus is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

B205091 Peak-Las Positas
 v.
 Bollag

Filed order modifying opinion. (No change in the judgment)

March 26, 2009 (Continued)

DIVISION SIX (continued)

B206435 Human Resources Agency
v.
C.M.,

Filed order modifying opinion. (No change in the judgment)

DIVISION SEVEN

B206367 People (Not for Publication)
v.
McIntosh

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.
Zelon, J.